

MINUTES

INDIANA BOARD OF CHIROPRACTIC EXAMINERS

MAY 3, 2007

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Dyer called the meeting to order at 9:00 a.m. in Room 1 of the Conference Center, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 25-10-1-1.5(d).

Board Members Present:

David Dyer, D.C., Chairman
Charles Cochran, D.C., Vice Chair
Marian Klaes-Lanham, D.C.
John Bernzott, D.C.
David Frischman, D.C.

Board Members Absent:

David Davis, D.C.
Michael Riley, Consumer Member

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Kristine Yarde, Assistant Director, Professional Licensing Agency
Jason Thompson, Deputy Attorney General, Office of the Attorney General
Elizabeth Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF AGENDA

A motion was made and seconded to adopt the agenda, as amended.

COCHRAN/KLAES-LANHAM
Motion carried 5-0-0

III. ADOPTION OF THE MINUTES FROM THE MARCH 1, 2007 MEETING OF THE BOARD

A motion was made and seconded to adopt the minutes, as presented, from the March 1, 2007 meeting of the Board.

KLAES-LANHAM/FRISCHMAN
Motion carried 5-0-0

IV. APPEARANCES

A. PROBATIONARY

There were no probationary appearances scheduled for this date.

B. APPLICATION

1. Virginia Ann Steiner, D.C.

Dr. Steiner had rescheduled her personal appearance before the Board.

2. Todd Matthew Worthington, D.C.

Dr. Worthington appeared before the Board, as requested, regarding his application for chiropractic licensure. Dr. Worthington successfully completed the law examination. Dr. Worthington is a 2000 graduate of Logan College of Chiropractic and has taken and passed National Boards Parts I, II, III, IV, and Physiotherapy. Dr. Worthington holds a license in Ohio.

Board Action: A motion was made and seconded to grant Dr. Worthington chiropractic licensure.

BERNZOTT/KLAES-LANHAM
Motion carried 5-0-0

3. Vick Lynn Danis, D.C.

Dr. Danis appeared before the Board, as requested, regarding her application for chiropractic licensure. Dr. Danis successfully completed the law examination. Dr. Danis is a 2007 graduate of Logan College of Chiropractic and has taken and passed National Boards Parts I, II, III, IV, and Physiotherapy. Dr. Danis does not hold a license at this time.

Board Action: A motion was made and seconded to grant Dr. Danis chiropractic licensure.

FRISCHMAN/BERNZOTT
Motion carried 5-0-0

4. Kimberly Anne Gerbers, D.C.

Dr. Gerbers appeared before the Board, as requested, regarding her application for chiropractic licensure. Dr. Gerbers successfully completed the law examination. Dr. Gerbers is a 2007 graduate of National University of Health Sciences and has taken and passed National Boards Parts I, II, III, IV, and Physiotherapy. Dr. Gerbers does not hold a license at this time.

Board Action: A motion was made and seconded to grant Dr. Gerbers chiropractic licensure.

FRISCHMAN/DYER
Motion carried 5-0-0

5. Nicholas Jansen, D.C.

Dr. Jansen appeared before the Board, as requested, regarding his application for chiropractic licensure. Dr. Jansen successfully completed the law examination. Dr. Jansen is a 2007 graduate of National University of Health Sciences and has taken and passed National Boards Parts I, II, III, IV, and Physiotherapy. Dr. Jansen does not hold a license at this time.

Board Action: A motion was made and seconded to grant Dr. Jansen chiropractic licensure.

COCHRAN/FRISCHMAN
Motion carried 5-0-0

6. Steven Kouimanis, D.C.

Dr. Kouimanis appeared before the Board, as requested, regarding his application for chiropractic licensure. Dr. Kouimanis successfully completed the law examination. Dr. Kouimanis is a 2007 graduate of Palmer College of Chiropractic and has taken and passed National Boards Parts I, II, III, IV, and Physiotherapy. Dr. Kouimanis does not hold a license at this time.

Board Action: A motion was made and seconded to grant Dr. Kouimanis chiropractic licensure.

KLAES-LANHAM/COCHRAN
Motion carried 5-0-0

C. RENEWAL AUDIT

1. Brian Smith, D.C.

Dr. Smith was chosen in the random audit of continuing education for the period of July 1, 2004 through July 1, 2006. He was found to be deficient four (4) hours of continuing education in the area of risk management. He was assessed a fine in the amount of two hundred dollars (\$200.00) and required to make-up the hours he was missing. Dr. Smith submitted a written petition to the Board to appeal this disciplinary sanction on the grounds that he completed the four (4) hours in online education. Dr. Smith failed to personally appear before the Board to discuss his appeal. The Board requested that this matter be reset on the Board's July 12th agenda for further consideration. Also the Board requested to advise Dr. Smith that if he does not appear that his license will be suspended. Or he may wish to pay the fine prior to that date and complete the continuing education as required.

V. ADMINISTRATIVE HEARING

A. State of Indiana v. Horng Yuan Shao, D.C., License No. 08001807A

Administrative Cause No. 2007 IBCE 0002

Re: Emergency Suspension and Petition for Suspension of Summary Suspension

Parties and Counsel Present:

Respondent was not present and was not represented by counsel
Shelley Johnson, Deputy Attorney General for the State of Indiana
Vannessa Beach, Court Reporter

Participating Board Members:

Dr. Dyer (Hearing Officer)
Dr. Cochran
Dr. Klaes-Lanham
Dr. Bernzott
Dr. Frischman

Case Summary: On January 16, 2007, Respondent was charged in United States District Court, Southern District of Indiana, Indianapolis Division for Health Care Fraud, in violation of 18 U.S.C. § 1347. Respondent entered into a plea agreement and agreed to plead guilty to Health Care Fraud. The State presented the Board with another agreement to extend the ninety (90) day summary suspension as the practitioner represents a clear and immediate danger if allowed to continue to practice as a chiropractor.

Board Action: A motion was made and seconded to grant the ninety (90) day extension of summary suspension.

KLAES-LANHAM/COCHRAN
Motion carried 5-0-0

B. State of Indiana v. Wei Chen Yang, D.C., License No. 08001810A

Administrative Cause No. 2007 IBCE 0001
Re: Complaint and Emergency Suspension

Parties and Counsel Present:

Respondent was not present and was not represented by counsel
Shelley Johnson, Deputy Attorney General for the State of Indiana
Vannessa Beach, Court Reporter

Participating Board Members:

Dr. Dyer (Hearing Officer)
Dr. Cochran
Dr. Klaes-Lahnam
Dr. Bernzott
Dr. Frischman

Case Summary: On January 16, 2007 Respondent was charged in United States District Court, Southern District of Indiana, Indianapolis Division with Health Care Fraud, in violation of 18 U.S.C. § 1347. Respondent has entered into plea agreement and agreed to plead guilty Health Care Fraud. The Attorney General's Office filed a complaint on April 20, 2007 which states that the Respondent was sentenced to a term of probation of three (3) years. The Respondent was also ordered to pay \$187,369.99 of restitution to Anthem, Inc., United Healthcare, and Medicare. The State advised the Board that they are in the process of working out a settlement agreement with the Respondent's attorney Richard Keifer. The State presented a voluntary suspension agreement to the Board and stated that at the July 12, 2007 meeting there will either be a settlement proposal or a hearing.

Board Action: A motion was made and seconded to accept the voluntary suspension.

BERNZOTT/FRISCHMAN
Motion carried 5-0-0

C. State of Indiana v. E. Michael Schaefer, D.C., License No. 08001047A

Administrative Cause No. 2005 IBCE 0007
Re: Order to Show Cause

Parties and Counsel Present:

Respondent was present and was not represented by counsel
Shelley Johnson, Deputy Attorney General for the State of Indiana
Vannessa Beach, Court Reporter

Participating Board Members:

Dr. Dyer (Hearing Officer)

Dr. Cochran
Dr. Klaes-Lahnam
Dr. Bernzott
Dr. Frischman

Case Summary: On April 12, 2007 the Board issued an Order to Show Cause against the Respondent after it was confirmed by a random toxicology screen taken on February 21, 2007 that the Respondent has had a second relapse. Respondent was placed on indefinite probation as of September 15, 2005 for a period of three (3) years subject to certain terms and conditions. The Respondent explained to the Board several events taking place in his life which influenced his relapse. The State called the Respondent as a witness and reviewed his history with the Board. The Respondent stated he started using crack cocaine one or two years ago and it is not something he uses habitually. The State entered into evidence exhibit #1 which is a letter to the Board from the Respondent's physician, Brian Esch, M.D. This letter reports the relapse and outlines a treatment plan for the Respondent which includes an intensive outpatient program. The drug screen results were also attached. The Respondent stated that he has looked into six different programs but cannot afford them. He said he attends two (2) AA meetings per week but cannot attend more due to transportation issues. Respondent advised he has been attending AA since 2005 and he is between steps 4 and 5. He is not currently working and cannot do adjustments due to his back problems and although he is looking for a job that he can do he cannot afford weekly urine screens at this time. The Respondent asked the Board to grant him a sixty (60) or ninety (90) day continuances so that he can get some things lined up and prove to the Board that he is committed to helping himself. The State reiterated the seriousness of his relapse and felt he was making excuses for his behavior and although he is not currently working he has a license to do so. The State requested the Board suspend the Respondent's license.

Board Action: A motion was made and seconded to accept that the State has proven its case and the Respondent is in violation of his probation.

COCHRAN/KLAES-LANHAM
Motion carried 5-0-0

Board Action: A motion was made and seconded to Indefinitely Suspend Respondent's license. He may not petition for reinstatement until after August 6, 2007. As a condition precedent to reinstatement the Respondent must show proof of monthly drug screens, attendance at three (3) AA meetings per week and participation and compliance with an intensive outpatient program.

FRISCHMAN/BERNZOTT
Motion carried 5-0-0

D. State of Indiana v. Michael Vandersluis, D.C., License No. 08001442A
Administrative Cause No. 97 IBCE 001
Re: Request to Withdraw Order of Probation

Parties and Counsel Present:

Respondent was present and was not represented by counsel
Shelley Johnson, Deputy Attorney General for the State of Indiana
Vannessa Beach, Court Reporter

Participating Board Members:

Dr. Dyer (Hearing Officer)
Dr. Cochran
Dr. Klaes-Lanham

Dr. Bernzott
Dr. Frischman

Case Summary: On April 14, 2004 the Respondent's license was reinstated and placed on Indefinite Probation for a period of three (3) years subject to certain terms and conditions. The Respondent petitioned the Board to have a hearing and consider withdrawing his probation. The Respondent testified that he has successfully complied with the terms and conditions of his probation order. The State reviewed his history with the Board and concurred that he has met all of the probation terms and conditions and therefore does not contest his request.

Board Action: A motion was made and seconded to grant the Respondent's request and withdraw the probation order.

BERNZOTT/FRISCHMAN
Motion carried 5-0-0

VI. SETTLEMENT AGREEMENTS

There were no settlement agreements before the Board.

VII. NOTICE OF PROPOSED DEFAULT

There was no notice of proposed defaults before the Board.

VIII. OLD/NEW BUSINESS

There was no old/new business before the Board.

IX. DISCUSSION

A. Proposed Administrative Rule Changes

1. Proposed Rules for Continuing Education

The Board reviewed the changes they will be asking for in rules concerning continuing education.

2. Acceptance of Spec Exam

The Board decided not to go forward with a rule change that would allow the SPEC exam to be used in lieu of Part IV of the NBCE examination.

X. APPLICATION REVIEW

A. Endorsement Applications

1. Larry A. Phipps, D.C.

The Board reviewed the application file for Dr. Phipps. Dr. Phipps is a 1963 graduate of Logan College of Chiropractic and has completed National Board

Part I, II and Physiotherapy. He is currently licensed in the states of Iowa and Tennessee. He also holds an expired license in the states of Missouri and Kentucky.

Board Action: After review of his file, a motion was made and seconded to allow Dr. Phipps to sit for the law examination at the July 12, 2007 meeting.

KLAES-LANHAM/BERNZOTT
Motion carried 5-0-0

B. Examination Applications

There were no examination applications to review.

C. Temporary Permits

There were no temporary permits to review

D. Professional Corporation Applications

There were no Professional Corporation applications to review

XI. PROBATIONARY REPORT

There were no probationary reports.

XII. CONTINUING EDUCATION

XIII. REPORTS

A. Indiana State Chiropractic Association

There was no report from the ISCA

B. International Chiropractic Association of Indiana

There was no report from the ICAI.

C. Consumer Complaints

Dr. Bernzott reported he had reviewed

D. Continuing Education

There were no programs that needed to be reviewed and approved by the Board. All programs submitted were given by sponsors who have automatic approval.

XIII. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Board of Chiropractic Examiners adjourned at 1:00 p.m.

David Dyer, D.C. - Chairman

Date

Charles Cochran, D.C. - Vice Chairman

Date